THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.11931 of 2004

Dated:02.11.2006

Between

N.V.Ramakrishna Sarma

.....Petitioner

and

1. The Deputy Registrar of
Cooperative Societies, Vijayawada
and others.

...Respondents

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W.P.No.11931of 2004

ORDER:

It appears that after an enquiry under Section 51 of the Andhra Pradesh Co-operative Societies Act, (for short 'the Act') 1964, proceedings under Section 60 of the Act were initiated against the petitioner and four others who are similarly placed, including the ex-secretaries of the Society. While initiating surcharge proceedings, joint and several liability was fixed, on various grounds. Aggrieved by the same, it seems that appeals were filed viz., O.A. No.77 of 2002, OA No.130 of 2002, O.A. No.94 of 2003. However, they were not disposed of together and were disposed of separately at various points of time. Since the appeal filed by the petitioner was disposed of confirming the surcharge proceedings, he filed the present writ petition.

Now, the contention of the learned counsel for the petitioner is that O.A.No.77 of 2002 filed by the 4th respondent herein, was allowed by the 5th respondent-

Tribunal and remanded for re-consideration holding that the appellant therein was not given proper opportunity to defend himself. He contended that the petitioner is also shown as one of the respondents in the said proceedings, therefore, the order passed by the surcharge authority would go against the interest of the petitioner, if the appeal in O.A. No.94 of 2003, filed by the petitioner, is not allowed and remanded and tagged on to the proceedings initiated by the surcharge authority against the 4th respondent herein. Further, it is the contention of the learned counsel for the petitioner that the petitioner did not attend before the surcharge authority though notice was given since he was ill and hospitalized and this fact was neither considered by the surcharge authority nor by the appellate authority.

In the peculiar facts and circumstances of the case, I deem it appropriate to set aside the order made in O.A.No.94 of 2003 confirming the order of the surcharge authority vide proceedings dated 7-3-2002.

In the result, the writ petition is allowed and the matter is remitted back to the surcharge authority for fresh consideration along with the surcharge

proceedings initiated against the 4th respondent herein.

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02-11-2006

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